

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

PATRICK COLLINS, INC.,)	
)	
Plaintiff,)	Civil Case No. <u>2:12-cv-13888-MAG-MAR</u>
)	
v.)	
)	
BRIAN MAISONVILLE,)	
)	
Defendant.)	
_____)	

REPORT OF THE PARTIES' RULE 26(f) CONFERENCE

1. Pursuant to Rule 26(f), the parties held a meeting on November 28, 2012, which was attended by:

Paul J. Nicoletti, Esq.
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Attorneys for Plaintiff

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Tel: (248) 591-9291
Attorney for Defendant

2. **Pre-Discovery Disclosures.** The parties will exchange by **December 10, 2012** the information required by Fed. R. Civ. P. 26(a)(1)

3. **Discovery Plan.**

Plaintiff expects the discovery in this case will take 4-6 months, assuming the Court quickly rules on discovery motions.

The parties do anticipate that their claims or defenses will involve extensive electronically stored information, and that a substantial amount of disclosure or discovery will involve information or records maintained in electronic form.

Plaintiff: expects to take between twenty and forty depositions in this case, including:

(A) Defendant's deposition; [**Timing:** No sooner than three weeks after Plaintiff receives Defendant's responses to its paper discovery; indeed, Plaintiff will need to analyze Defendant's computers in advance of these depositions; a third party will do this analysis. Plaintiff will be subject to the schedule of the third party. This is also expensive and would be even more so if Plaintiff has to pay rush fees.]

(B) Depositions of each of the people living in Defendant's residence; [**Timing:** No sooner than three weeks after Plaintiff receives Defendant's responses to its paper discovery; indeed, Plaintiff will need to analyze Defendant's computers in advance of these depositions; a third party will do this analysis. Plaintiff will be subject to the schedule of the third party. This is also expensive and would be even more so if Plaintiff has to pay rush fees.]

(C) Depositions of any other person who may have had access to Defendant's internet; [**Timing:** No sooner than three weeks after Plaintiff receives Defendant's responses to its paper discovery; indeed, Plaintiff needs to review the responses to Defendant's discovery to ascertain the universe of deponents. Then scheduling the depositions and issuing and serving subpoenas duces tecum for deposition must occur.]

(D) Depositions of Defendant's internet service providers; [**Timing:** Plaintiff is finalizing its subpoena duces tecum for 30(b)(6) deposition, and will set these depositions for some time in late January or February]

(E) Possible Depositions of Defendant's neighbors; [**Timing:** If Defendant's discovery responses indicate his or her wireless internet router was not secured by a password then Plaintiff will take the deposition of Defendant's neighbors. The purpose of this discovery is to ask the neighbors if they have used Defendant's wireless internet, whether they have their own internet service, whether they use BitTorrent, among other things);

(F) Depositions of search engines including Google, Bing, Ask Jeeves and Yahoo; [Timing: Plaintiff is finalizing its subpoena duces tecum for 30(b)(6) depositions, and will set these depositions for sometime late January or February]

(G) IPP, Limited is a fact witness. IPP, Limited's employees reside in Germany. Plaintiff will speak with IPP, Limited for the purpose of assisting Defendant to coordinate a deposition via video conference, if Defendant desires. [The timing of this deposition is not yet clear.]

(H) Plaintiff anticipates retaining an expert to testify that IPP Limited's software works as described and that it cannot be spoofed. Defendant may want to depose this expert. The timing of this deposition is not yet clear.]

(I) Defendant may retain a rebuttal expert. If so, then Plaintiff will depose that rebuttal expert. [The timing of this deposition is not yet clear.]

The parties jointly propose to the Court the following discovery plan:

Defendant: Anticipates objecting to the number of proposed witnesses and believes that it will need only one deposition (i.e. that of the Plaintiff's 30(b)(6) representative. In all other respects Defendant agrees with the proposals set forth in the discovery plan.

CASE PLAN AND SCHEDULE:

a. Deadline for Joinder of Parties and Amendment of Pleadings: **January 30, 2013** with the caveat that pleadings can be amended as necessary to be consistent with facts uncovered through discovery.

b. Deadline to propound paper discovery: **May 29, 2013.**

c. Discovery Cut-off: **July 3, 2012.**

d. Dispositive Motion Deadline: **August 14, 2013.**

e. Expert Witness Disclosures:

1. The parties anticipate 2 expert witnesses per party without leave of Court.
2. The parties shall designate all experts and provide opposing counsel and any pro se parties with all information specified in Fed. R. Civ. P. 26(a)(2) on or before **February 6, 2013**.
3. The parties shall designate all rebuttal experts and provide opposing counsel and any pro se party with all information specified in Fed. R. Civ. P. 26(a)(2) on or before **March 27, 2013**.

f. Identification of Persons to Be Deposed: The parties anticipate deposing each other. Additionally, Plaintiff anticipates deposing any person that may have had access to Defendants' internet service. All depositions including experts shall be completed by **July 24, 2013**.

4. **Settlement**

The parties have discussed settling this matter but to date have not agreed on terms that mutually acceptable to them.

DATED this ____ day of November, 2012.

BY THE COURT:

UNITED STATES MAGISTRATE JUDGE

APPROVED:

/S/ Paul J. Nicoletti

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